

## Overview of the 8(a) BD program

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# What is the 8(a) Business Development Program?

### ✓ What is the 8(a) Business Development Program?

- **- THE LAW:** Began as a public law - named after Section 8(a) of the Small Business Act 1953 (Public Law 95-507 & 100-656)
  - <http://www.sba.gov/content/small-business-act> - full copy of the Small Business Act
- **- SBA REGULATIONS:** Governed by 13 CFR § 124
  - [www.ecfr.gov](http://www.ecfr.gov) – click on “Title 13” and then “Part 124”
- **- ADD’L FEDERAL REGULATIONS:** Incorporated in the Federal Acquisition Regulations (FAR), under Part 19, Small Business Programs
  - [www.ecfr.gov](http://www.ecfr.gov) – click on “Title 48” and then “Part 19”

### ✓ What are the objectives of the 8(a) Business Development Program?

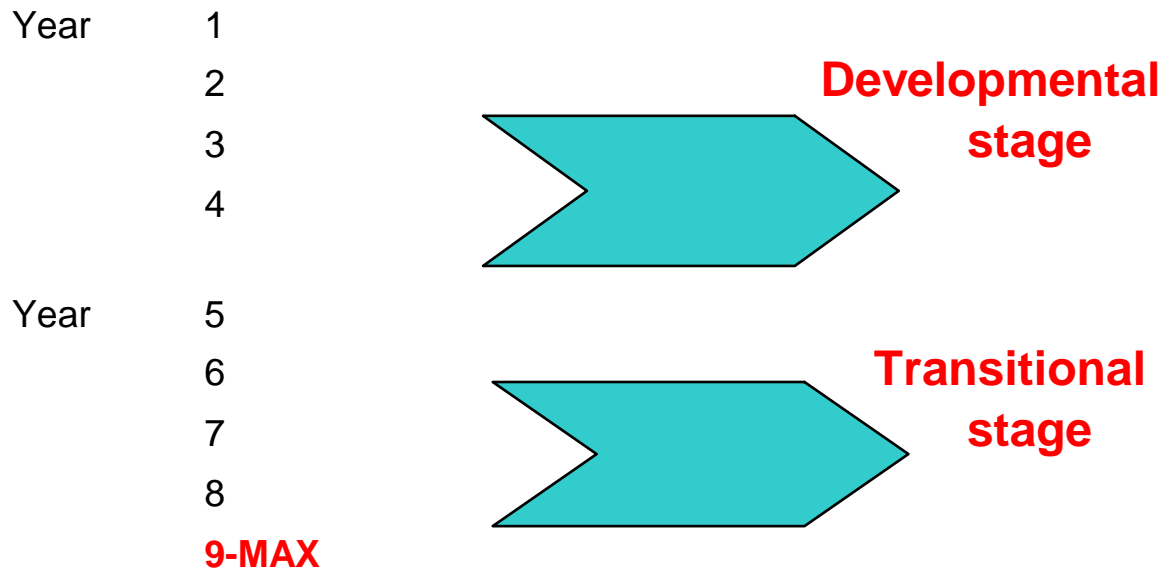
- “to promote the business development of small business concerns owned and controlled by socially and economically disadvantaged individuals...”
- “to promote the competitive viability of such [firms] ...”
- “to clarify and expand the program for procurement by the United States...”

✓ This is what Congress intended. . .

# Overview of the 8(a) BD program

## How long can a firm be in the Program?

**START = date of SBA approval (only by the AA/BD)**



Year-to-Year continuation dependent on

- - - - continued eligibility – for both - individuals & the firm - - - -
- - - - continued compliance – for both - individuals & the firm - - - -

-- still socially and economically disadvantaged owned & operated -- still small – still need SBA assistance to achieve business plan targets, objectives, goals – no negative control by other non-8(a) firms or individuals – submission of all required docs

## Overview of the 8(a) BD Program

### Benefits of the 8(a) BD program

- Participants can receive sole-source contracts, up to a ceiling of \$4 million for goods and services and \$6.5 million for manufacturing. While we help 8(a) firms build their competitive and institutional know-how, we also encourage you to participate in competitive acquisitions.
- 8(a) firms are also able to form joint ventures and teams to bid on contracts. This enhances the ability of 8(a) firms to perform larger prime contracts and overcome the effects of contract bundling, the combining of two or more contracts together into one large contract.
- No Fees
- Assist in the growth of socially and economically disadvantaged concerns to compete in the mainstream economy.

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*Assistance  
Available  
to  
8(a) BD Program  
Participants*

## ***Assistance Available to 8 (a) BD Participants***

- Business Opportunity Specialists Support
- Training 7(j)
- 8(a) BD Contracting
- Finance
- Resource Partners
  - SCORE
  - SBDCs
  - Women's Business Centers

# *Efforts to Improve the 8 (a) BD Program*

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- New Initial Application Process Streamlining Initiative
- Enhanced working relationships with procuring agencies
- New electronic support
- Better trained staff to support program participants



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# Eligibility Criteria

# *Eligibility Criteria*

## **Socially disadvantaged**

individuals are persons who have been subjected to racial or ethnic prejudice or cultural bias because of their identities as members of groups, without regard to individual qualities.



# *Eligibility Criteria*

**Individuals are presumed to be socially disadvantaged if they are a U.S. Citizen and a member of one of the following groups:**

Black American

Asian Pacific American

Hispanic American

Native American

Subcontinent Asian American

**Persons not members of a designated group.**

- Must establish a preponderance of evidence.

# ***Eligibility Criteria***

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## **Entity-Owned Companies**

**Alaskan Native Corporation (ANC)  
Tribal**

**Native Hawaiian Organization (NHO)  
Community Development Corporation (CDC)**

# *Eligibility Criteria*

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## **Economically Disadvantaged**

Individuals that are socially disadvantaged persons whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit.

# Eligibility Criteria

## Net worth criterion:

After excluding the individual's equity in the firm, equity in the primary residence, and retirement funds that are not accessible without significant penalties, and individual's net worth may not exceed **\$250,000.00**

## NET WORTH

Less	Equity in primary residence
Less	Equity in business
<u>Less</u>	IRA/Retirement Acct (Penalties)
Equals	Adjusted net worth
	( <i>must not exceed \$250,000</i> )



# *Eligibility Criteria*

## **Personal Income:**

An individual's adjusted gross income averaged over the 3 year period preceding the application date may not exceed **\$250,000.00.**

**Excludes pass through income where there is evidence that it was reinvested in the firm.**



# *Eligibility Criteria*

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## **Total Assets:**

Including all exclusions, the individual's total assets may not exceed **\$4,000,000.00**





# *Eligibility Criteria*

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## **After Program Entry:**

Net Worth: \$ 750,000

Total Assets: \$6,000,000

Personal Income: \$ 350,000



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# ***Good Character***

# *Eligibility Criteria*

## *Good Character*

### *What shows lack of good character?*

- Adverse information regarding possible criminal conduct by the applicant or its principals.
- Violations of any SBA regulations.
- Debarred or suspended individuals or firms.
- Applicant firms and principals that lack business integrity as shown by an indictment, guilty plea or civil judgment.
- Any principal who is incarcerated or on parole or probation.
- Evidence that the firm knowingly submitted false information during the application process.
- Any firm or any of its principals that fail to pay financial obligations to the Federal Government.

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# ***Potential for Success***

# *Eligibility Criteria*

## *Potential for Success*

### **Factors considered:**

- Must be in business in its primary NAICS code for at least two full years immediately prior to the date of its 8(a) application.
- Proof of two years operation in the firm's primary industry as verified by revenues reported in business tax returns.
- Financial capability: sufficient capitalization, financial performance, bonding capacity, manageable debts.
- Managerial and Technical capability: performance on previous contracts, firm has the necessary personnel, licenses, certifications, facilities, prior experience.

# *Eligibility Criteria*

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## *Potential For Success Cont'd...*

- Management capability: Education, experience and training of CEO and other managers, magnitude and complexity of past/current jobs, management systems.
- Qualifications for ability to perform on Federal contracts: relevant contracting experience, ability to meet Federal procurement policies.

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# ***Waiver of the Two Year Rule***

# *Eligibility Criteria*

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## *Waiver of the Two Year Rule*

### **SBA may waive the two-year rule if:**

- The individual or individuals upon whom eligibility is to be based have substantial and demonstrated business management experience;
- The applicant has demonstrated technical expertise to carry out its business plan with a substantial likelihood for success if admitted to the 8(a) BD Program;
- The applicant has adequate capital to carry out its business plan as a Participant;



# *Eligibility Criteria*

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## *Waiver of the Two Year Rule Cont'd...*

- The applicant has a record of successful performance on contracts from governmental and nongovernmental sources in the primary industry category;
- The applicant has, or can demonstrate its ability to timely obtain the personnel, facilities, equipment, and any other requirements needed to perform such contracts as a Participant.

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# *Ownership*

# *Eligibility Criteria*

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## *Ownership*

- At least 51% unconditional ownership by the disadvantaged person(s).
- Partnerships: Agreements must reflect unconditional ownership.
- Limited Liability Company: Disadvantaged individuals must own at least 51% of each class of member interest.

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# *Size*

## LEAVING/EXITING THE PROGRAM

- **Voluntary Early Graduation**

- Participant's decision to leave the 8(a) BD Program
- Prior to 9-year program expiration date
- Firm meets or exceeds its business targets, goals and objectives – business plan

*Initiated by the Participant*

- **Voluntary Withdrawal**

- Participant's decision to leave the 8(a) BD Program for any reason

*Initiated by the Participant*

- **Completion of the 9 year Term**

- **Graduation (can be Early Graduation)**

- Participant's successful completion of the 8(a) BD Program
- Substantially achieved business targets, objectives, and goals in its 8(a) business plan
- Can be EARLY Graduation if prior to 9-year program expiration date
- Firm demonstrates ability to compete in the market place without the assistance of the 8(a) BD Program

*Initiated by SBA*

- **Termination**

- Participant's exit from the 8(a) Business Development Program for good cause before expiration of the 9-year program term

*Initiated by SBA*

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# ***Application Processing***

# Application Process

An application for 8(a) BD program admission must generally be filed in an electronic format. An electronic application can be found by going to the 8(a) BD page of SBA's Web site (<http://www.sba.gov>).

## REQUIRED FORMS:

For each firm:

- SBA 1010 – “Application for 8(a) BD”
- SBA 1623 – “Certification Regarding Debarment and Suspension”
- IRS Form 4506 – “Request for Copy or Transcript of Tax Form”

For each officer, director, shareholder with more than 10% holding, proprietor, partner and each person claiming disadvantage:

- SBA 413 – “Personal Financial Statement”\*
- SBA 912 – “Personal History” \*\*
- IRS Form 4506 – “Request for Copy or Transcript of Tax Form”

Additional required documentation is listed in the SBA Form 1010

*\*when married, separate statements from each spouse to show each individual's joint or community property shares and separate property.*

*\*\*Fingerprints on Form FD-258 if individual reports arrest record.*

# ***Application Process***

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- SBA reviews application for completeness and notifies firm of deficiencies within 15 days.
- If incomplete, applicant submits corrections within 15 days and a determination of completeness is made by SBA within 10 days of receipt of firm's response.
- Applicant advised of outcome by the Associate Administrator within 90 days from the date completed application was accepted.
- If declined, applicant advised of right to request reconsideration within 45 days of date of decline. Should the concern not seek reconsideration, there is a mandatory 12 month waiting period before firm may reapply.
- If declined after reconsideration, there is a mandatory 12 month waiting period before firm may reapply.



# Application Processing

## *Ineligible Businesses and Individual Disqualification*

- Ineligible businesses: brokers\*; debarred or suspended persons or concerns; nonprofit organizations. Franchises may be allowed contingent upon SBA review of the franchise agreement.
- A business may participate only once. Even if ownership and control has completely changed, firm may not re-apply.
- Any person who has used his/her disadvantaged status to qualify another firm shall be regarded as non disadvantaged.

\* *A broker is a concern that adds no material value to an item being supplied to procuring activity or which does not take ownership or possession of or handle the item being procured with its own equipment or facilities.*

# *Application Process*

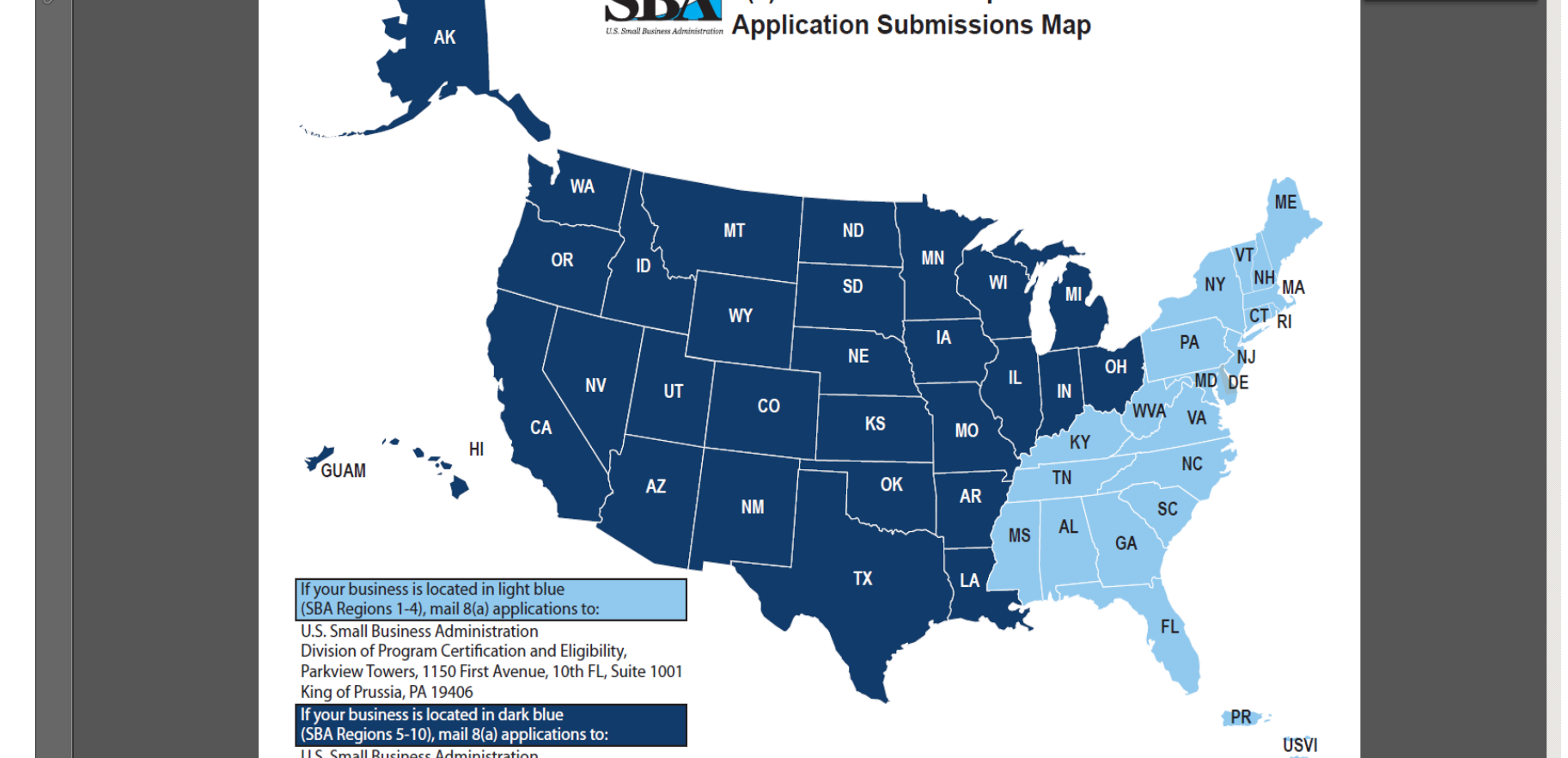
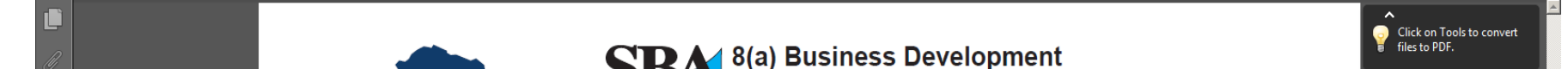
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## *Place of Filing*

# *Application Process*

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Applications for the 8(a)BD program are filed with the Division of Program Certification & Eligibility (DPCE) Unit that services the Federal Region **where the 8(a) Participant is located**



If your business is located in dark blue (SBA Regions 5-10), mail 8(a) applications to:  
U.S. Small Business Administration

U.S. Small Business Administration  
Division of Program Certification and Eligibility  
455 Market Street, San Francisco, CA 94105 Suite 600 06/25/13

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# *8(a)BD Contracting*

# 8(a) BD Contracting

- **Sole Source 8(a) Contracts**
- **Competitive 8(a) Contracts**
- Offer & Acceptance of 8(a) Contracts
  - Procuring Agency OFFERS the contract to SBA
  - SBA can Accept or Reject
  - SBA Determines if the 8(a) Firm is Eligible for the Contract Award
  - Federal Agency can award the 8(a) Contract, but only after SBA's go ahead

# The 8(a) BD Program

## “Not Just Contracts: The SBA’s 8(a) Business Development Program”

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